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12  
13 **UNITED STATES DISTRICT COURT**  
14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

15 ACE MARINE RIGGING & SUPPLY,  
16 INC.,

17 Plaintiff,

18 v.

19 VIRGINIA HARBOR SERVICES,  
INC., ET AL.,

20 Defendants.

**No. SACV 11-00436-GW(FFMx)**

**ORDER GRANTING  
PRELIMINARY APPROVAL OF  
PROPOSED SETTLEMENTS  
WITH: (1) VIRGINIA HARBOR  
SERVICES, INC., FENITEK  
MARINE SYSTEMS GMBH,  
ROBERT B. TAYLOR AND  
DONALD MURRAY; (2) MARINE  
FENDERS INTERNATIONAL  
AND GERALD THERMOS; (3)  
WATERMAN SUPPLY CO., INC.  
AND SEYMOUR WATERMAN;  
AND (4) MARITIME  
INTERNATIONAL, INC. AND  
JOHN DEATS**

**Date: September 15, 2011**

**Time: 8:30 A.M.**

**Judge: The Honorable George Wu  
Ctm: 10**

1           Upon consideration of the Amended Motion for Preliminary Approval of  
2 Proposed Settlements (“Motion”) with: (1) Virginia Harbor Services, Inc., Fentek  
3 Marine Systems GmbH, Robert B. Taylor and Donald Murray (“VHS  
4 Defendants”); (2) Marine Fenders International (“MFI”) and Gerald Thermos  
5 (“MFI Defendants”); (3) Waterman Supply Co., Inc. and Seymour Waterman  
6 (“Waterman Defendants”); and (4) Maritime International, Inc. and John Deats  
7 (“Maritime Defendants) (collectively, “Settling Defendants”), it is hereby  
8 **ORDERED** as follows:

- 9           1.     The Motion is hereby **GRANTED**.
- 10          2.     The Court finds that the proposed Settlement Agreements with the  
11 Settling Defendants, subject to final determination following a hearing after notice  
12 to the proposed Settlement Classes, are sufficiently fair, reasonable and adequate to  
13 authorize dissemination of notice to the proposed Settlement Classes.
- 14          3.     Notice shall be provided to all members of the proposed Settlement  
15 Classes (the “Settlement Classes”) who can be identified using reasonable efforts.  
16 With respect to the Settlement Agreement with the VHS Defendants, pursuant to  
17 Federal Rule of Civil Procedure 23, the Court provisionally certifies the following  
18 Settlement Class:

19                   All persons and entities (but excluding Defendants, their  
20 predecessors, parents, subsidiaries, affiliates, and co-  
21 conspirators, United States federal government entities  
22 and the State of Florida and all Florida state and local  
23 government entities) who purchased Foam-Filled Fenders  
24 and/or Buoys in the United States directly from Settling  
25 Defendants, Named Co-Conspirators, any other  
26 Defendant or any of their predecessors, parents,  
27 subsidiaries, or affiliates at any time during the period  
28

1 from and including June 1, 2000 to and including  
2 December 31, 2005.

3 With respect to the Settlement Agreements with the MFI Defendants, Waterman  
4 Defendants and Maritime Defendants, pursuant to Federal Rule of Civil Procedure  
5 23, the Court provisionally certifies the following Settlement Class:  
6

7 All persons and entities (but excluding Defendants, their  
8 predecessors, parents, subsidiaries, affiliates, and co-  
9 conspirators and United States federal government  
10 entities) who purchased Foam-Filled Fenders and/or  
11 Buoys in the United States directly from Settling  
12 Defendants, Named Co-Conspirators, any other  
13 Defendant or any of their predecessors, parents,  
14 subsidiaries, or affiliates at any time during the period  
15 from and including June 1, 2000 to and including  
16 December 31, 2005.

17 4. Plaintiff Ace Marine Rigging & Supply, Inc. is an adequate  
18 representative of the Settlement Classes and is hereby appointed as the class  
19 representative of the Settlement Classes.  
20

21 5. The Court appoints the following law firm as Settlement Class  
22 Counsel: Labaton Sucharow LLP, 140 Broadway, New York, NY 10005.

23 6. The Court approves the form of the Notice and Summary Notice (the  
24 “Notices”), attached to the Amended Motion for Preliminary Approval as Exhibits  
25 “F” and “G”, respectively. The Court further finds that the mailing and publication  
26 of the Notices in the manner set forth in Paragraphs 7 and 8 below constitutes the  
27 best notice practicable under the circumstances as well as valid, due and sufficient  
28 notice to all persons entitled thereto and complies fully with the requirements of

1 Federal Rule of Civil Procedure 23 and the due process requirements of the  
2 Constitution of the United States.

3 7. Settlement Class Counsel are hereby directed to cause a Notice of  
4 Proposed Settlements of Class Action with Settling Defendants and Hearing on  
5 Settlement Approval and the attached Claim Form, in the forms attached to the  
6 Amended Motion for Preliminary Approval as Exhibits “F” and “H”, to be (a)  
7 mailed by first-class mail, postage prepaid, on or before October 14, 2011 (“Notice  
8 Date”) to all members of the Settlement Classes who can be identified using  
9 reasonable efforts; and (b) provided to all persons who request it. Settlement Class  
10 Counsel shall also post a copy of the Notice on the Internet at a readily accessible  
11 web address. Settlement Class Counsel shall identify the web address in all  
12 Notices that Settlement Class Counsel cause to be mailed, provided, or distributed  
13 pursuant to this paragraph.

14 8. Settlement Class Counsel are hereby directed to cause a Summary  
15 Notice of Proposed Settlement of Class Action with the Settling Defendants and  
16 Hearing on Settlement Approval (“Summary Notice”), in the form attached to the  
17 Motion for Preliminary Approval as Exhibit “G”, to be published on or before  
18 October 24, 2011 on one occasion in the *Investor’s Business Daily* and in *Business*  
19 *Wire*.

20 9. The Court will hold a hearing (the “Hearing”) on **January 19, 2012 at**  
21 **8:30 a.m.** at the United States Courthouse, 312 N. Spring Street, Los Angeles, CA  
22 90012, Courtroom 10, to determine the fairness, reasonableness and adequacy of  
23 the proposed settlements and whether the settlements should be finally approved  
24 and a final judgment entered thereon. The Court will also consider whether to  
25 approve Settlement Class Counsel’s Fee and Expense Application. Any Settlement  
26 Class Member who follows the procedure set forth in the Notice may appear and  
27  
28

1 be heard at this Hearing. The Hearing may be continued without further notice to  
2 the Settlement Classes.

3 10. Settlement Class Counsel shall file with the Court and serve on the  
4 parties a motion for final approval of the Settlement Agreements and Settlement  
5 Class Counsel's Fee and Expense Application on or before December 5, 2011.

6 11. All requests for exclusion from the Settlement Classes shall be  
7 postmarked no later than December 20, 2011.

8 12. Any member of the Settlement Classes who wishes to object to the  
9 terms of the Settlement Agreements or to Settlement Class Counsel's Fee and  
10 Expense Application must do so in writing, filed with the Clerk and served on  
11 Settlement Class Counsel and counsel for the Settling Defendants on or before  
12 December 20, 2011.

13 13. On or before January 9, 2012, Settlement Class Counsel shall cause to  
14 be filed with the Clerk of this Court, and served upon counsel for the Settling  
15 Defendants, affidavits or declarations of the persons under whose general direction  
16 the mailing of the Notice and the publication of the Summary Notice were made,  
17 showing that mailing and publication were made in accordance with this Order. In  
18 addition, such affidavits and declarations shall include a summary of the claims  
19 response rate of Class Members who filed a timely, valid Claim Form.

20 14. Any member of the Settlement Classes who wishes to submit a Claim  
21 Form must do so postmarked no later than December 20, 2011, and shall otherwise  
22 comply with the requirements and instructions set forth in the Claim Form.

23 15. The Court approves the establishment of the escrow accounts under  
24 the Settlement Agreements as qualified settlement funds ("QSFs") pursuant to  
25 Internal Revenue Code Section 468B and the Treasury Regulations promulgated  
26 thereunder, and retains continuing jurisdiction as to any issue that may arise in  
27 connection with the formation and/or administration of the QSFs. Settlement Class  
28

1 Counsel are, in accordance with the Settlement Agreements, authorized to expend  
2 funds from the QSFs for the payment of the costs of notice, payment of taxes, and  
3 settlement administration costs.

4 16. The litigation against the Settling Defendants is stayed except to the  
5 extent necessary to effectuate the Settlement Agreements.

6 DONE AND ORDERED in Chambers in Los Angeles, California this 15th  
7 day of September, 2011.

8   
9 HONORABLE GEORGE H. WU  
UNITED STATES DISTRICT JUDGE